

capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term "good accounting practices" does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term "depreciation" includes obsolescence.

(d)(1) The cost of furnishing "facilities" found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§ 531.4 Making determinations of "reasonable cost."

(a) *Procedure.* Upon his own motion or upon the petition of any interested person, the Administrator may determine generally or particularly the "reasonable cost" to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. Notice of proposed determination shall be published in the FEDERAL REGISTER, and interested persons shall be afforded an opportunity to participate through submission of written data, views, or arguments. Such notice shall indicate whether or not an opportunity will be afforded to make oral presentations. Whenever the latter opportunity is afforded, the notice shall specify the time and place of any hearing and the rules governing such proceedings. Consideration shall be given to all relevant matter presented in the adoption of any rule.

(b) *Contents of petitions submitted by interested persons.* Any petition by an employee or an authorized representative of employees, an employer or

group of employers, or other interested persons for a determination of "reasonable cost" shall include the following information:

(1) The name and location of the employer's or employers' place or places of business;

(2) A detailed description of the board, lodging, or other facilities furnished by the employer or employers, whether or not these facilities are customarily furnished by the employer or employers, and whether or not they are alleged to constitute "wages";

(3) The charges or deductions made for the facility or facilities by the employer or employers;

(4) When the actual cost of the facility or facilities is known an itemized statement of such cost to the employer or employers of the furnished facility or facilities;

(5) The cash wages paid;

(6) The reason or reasons for which the determination is requested, including any reason or reasons why the determinations in § 531.3 should not apply; and

(7) Whether an opportunity to make an oral presentation is requested; and if it is requested, the inclusion of a summary of any expected presentation.

§ 531.5 Making determinations of "fair value."

(a) *Procedure.* The procedures governing the making of determinations of the "fair value" of board, lodging, or other facilities for defined classes of employees and in defined areas under section 3(m) of the Act shall be the same as that prescribed in § 531.4 with respect to determinations of "reasonable cost."

(b) *Petitions of interested persons.* Any petition by an employee or an authorized representative of employees, an employer or group of employers, or other interested persons for a determination of "fair value" under section 3(m) of the Act shall contain the information required under paragraph (b) of § 531.4, and in addition, to the extent possible, the following:

(1) A proposed definition of the class or classes of employees involved;

(2) A proposed definition of the area to which any requested determination would apply;